

Notice of Allowability

Application No.

09/809,575

Examiner

Jean F. Vollano

Applicant(s)

BOGDANOVIC ET AL.

Art Unit

1621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 12/15/2003.
2. ☒ The allowed claim(s) is/are 1-8, 11-24.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

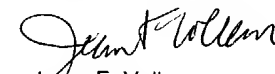
7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No. _____ | 7 <input type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |


Jean F. Vollano
Primary Examiner
Art Unit: 1621

DETAILED ACTION

1. The after final response filed 12/15/2003 has been entered. Claims 9-10 and 25 have been canceled. Claims 1-8, and 11-24 are pending.

2. The examiner notes for the record that in section b) of claim 1 that the claim as filed on 12/15/2005 reads “ said second metal-containing compound selected from an organomagnesium halide.”

There is no underlining or crossing out in this portion of the claim.

In the previous set of claims (which applicant is amending) filed 3/3/2003 the section b) in claim 1 reads “said second metal containing compound comprising:

i) a compound of a metal of Periodic”

The amendment of claim 1 on 12/15/2003 added claim 10 as a limitation to the claim to overcome the double patenting etc rejections since claim 10 was deemed to be free of prior art. Claim 10, which is now canceled read in part “wherein an organomagnesium halide is used as said second metal-containing compound”.

This limitation was not part of claim 1 as of 3/3/2003. Therefore the newly amended claim 1 should have been amended in part as “ said second metal-containing compound ~~comprising~~ selected from an organomagnesium halide. ~~± i) a compound of a metal of Periodic~~ ”

Applicant eliminated the word “comprising” from the amended claim instead of putting a line through it as required. And applicant did not underline the newly added section selected

Art Unit: 1621

from an organomagnesium halide. However the examiner notes that this was a valid attempt to amend the claim and as it is written the claim is in condition for allowance. The examiner has explained the problem in the amendment solely to clarify the record. Since a valid attempt was made to modify the claim properly to make it allowable and since the all the amendments and claims as written place the claims in condition for allowance the examiner has hopefully clarified the record as to why the newly amended claim 1 is not a direct copy of previous claim 1 but is proper in content. Therefore the claim will be accepted as modified with the explanation above so that prosecution will be hastened since the application is now in condition for allowance.

3. The reasons for allowance are of record (see paper no. 5 mailed 7/15/2003).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean F. Vollano whose telephone number is 703-305-4483. The examiner can normally be reached on Monday-Thursday 6:30 - 5:00.

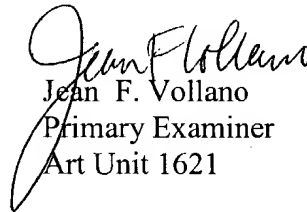
Application/Control Number: 09/809,575

Page 4

Art Unit: 1621

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 703-308-4532. The fax phone number for the organization where this application or proceeding is assigned is 703-308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.


Jean F. Vollano
Primary Examiner
Art Unit 1621

January 7, 2004